

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JESSICA NELSON,

Plaintiff,

v.

FEDERAL WAY DEPARTMENT OF
PUBLIC SAFETY,

Defendant.

No. C06-1142RSL

ORDER DENYING PLAINTIFF'S
MOTION TO EXTEND DISCOVERY
DATES AND PRETRIAL
SCHEDULING ORDER DEADLINES

This matter comes before the Court on "Plaintiff's Motion to Extend Discovery Dates and Pretrial Scheduling Order Deadlines Pursuant to FRCP 16(b)" (Dkt. #17). In her motion, plaintiff requests an extension until May 13, 2007 to submit expert witness reports under Fed. R. Civ. P. 26(a)(2) and an extension until July 12, 2007 for completion of discovery. For the reasons set forth below, the Court denies plaintiff's motion.

Under Fed. R. Civ. P. 16(b), a scheduling order "shall not be modified except upon a showing of good cause and by leave of the district judge." Plaintiff argues that it is her "desire" and in her "best interests" to allow Darryl Parker to substitute in as her counsel in this matter because it will eliminate the need for plaintiff to travel to Portland, Oregon to meet with her current counsel. See Motion at 2; Dkt. #17-4, Nelson Decl. at ¶¶4-7. Apparently, because Mr. Parker was not contacted earlier about being retained in this case, he "has indicated that he will

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1 take the case only if discovery dates are extended.” Id. at 1.

2 A “pretrial schedule may be modified ‘if it cannot reasonably be met despite the diligence
3 of the party seeking the extension.’ If the party seeking the modification ‘was not diligent, the
4 inquiry should end’ and the motion to modify should not be granted.” Zivkovic v. S. Cal.
5 Edison Co., 302 F.3d 1080, 1087 (9th Cir. 2002) (citing Johnson v. Mammoth Recreations, Inc.,
6 975 F.2d 604, 607 (9th Cir. 1992) (internal citations omitted).

7 Plaintiff in this case has not shown “good cause” for the extension or diligence in
8 complying with dates of the scheduling order. Plaintiff’s motion and supporting affidavits
9 provide no justifiable explanation for the delay in seeking the involvement of a Seattle-based
10 attorney. Not realizing, until 10 days before the March 14, 2006 Rule 26 deadline, that retaining
11 local counsel would eliminate the need for out-of-state travel to meet with her current counsel
12 does not show diligence. See Dkt. #9. Accordingly, plaintiff’s “Motion to Extend Discovery
13 Dates and Pretrial Scheduling Order Deadlines” (Dkt. #17) is DENIED.

14 DATED this 17th day of April, 2007.

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17 Robert S. Lasnik
18 United States District Judge
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